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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,788	02/05/2002	Dan E. Fischer	7678.545.2	8136
22913	7590	03/19/2004		
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			EXAMINER BUMGARNER, MELBA N	
			ART UNIT 3732	PAPER NUMBER

DATE MAILED: 03/19/2004

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant N .

10/068,788

Applicant(s)

FISCHER, DAN E.

Examiner

Melba Bumgarner

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dragan et al. in view of Green. Dragan et al. disclose a dental delivery tool sized and configured for delivery of a dental composition into a dental preparation (column 1 line 15) comprising a hollow body having a proximal receiving end, a distal delivery end, and a passageway communicating therebetween, the hollow body having a rim distal to the receiving end and a wall extending between the rim and receiving end; and a plurality of fibers 35 coupled to at least a portion of the body, said fibers having first ends coupled to the hollow body and second ends extending laterally away from the hollow body; wherein a portion of the fibers extend a length distally beyond the rim; wherein a portion of the fibers extend a length distal beyond the rim of the hollow body; and wherein a portion of the fibers are coupled along the wall a distance proximally with respect to the rim; however, they do not appear to show the distance at least two and one half times greater than the length. Green teaches a dental delivery tool wherein the distance is at least two and one half times greater than the length (figure 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the distance of the fibers coupled along the wall at least about two and one half times greater than the length of the fibers extending distally beyond the rim in order to enable debridement and site-specific

Art Unit: 3732

application of the composition to the dental preparation in view of Dragan et al. As to claim 2, Dragan et al. show at least a portion of the fibers extending the length is coupled to the rim. As to claim 3, Dragan et al. show at least a portion of the fibers coupled to the rim extend substantially perpendicularly from a face of the rim. As to claim 4, at least a portion of the fibers coupled along the wall extends substantially perpendicularly from the wall. As to claim 5, Dragan et al. show the delivery tool comprises a delivery tip (column 4 line 58). As to claim 6, Dragan et al. show the tip is adapted for attachment to a syringe (column 4 line 60). As to claim 7, it would have been an obvious matter of choice to one of ordinary skill in the art to call a “dental delivery tool sized and configured for delivery of *a dental composition*” an endodontic irrigator. As to claim 8, Dragan et al. show the tool comprises a dental applicator (column 3 line 35). As to claim 9, at least a portion of the body is curved 30B. As to claim 11, Dragan et al. show the fibers are deposited onto the body by electrostatic flocking (column 4 line 6). As to claims 12-14, Green shows the distance is at least about three, four, and five times greater than the length. As to claims 15-22, Dragan et al. disclose the limitations as described above and a coupling means 30C. As to claims 23 and 25-27, Green shows a method for manufacturing the tool comprising providing the elongate hollow body as described above and coupling fibers onto at least a portion of the body (column 3 line 13). As to claims 23 and 24, Dragan et al. disclose a method for manufacturing a dental delivery tool comprising providing the elongate hollow body as described above and coupling a plurality of fibers onto at least a portion of the body as through electrostatic flocking (column 4 line 1). As to claims 28-42, Green shows the distance is at least about 6 to 10 times greater than the length.

Response to Arguments

3. Applicant's arguments with respect to claims 1-42 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melba Bumgarner whose telephone number is 703-305-0740. The examiner can normally be reached on Mon-Fri.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (703) 308-2582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3732

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.



Melba Bumgarner
Patent Examiner



KEVIN SHAVER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700